IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Writ Petition No.1166 of 2007

Nilesh Gangaram Nalawade — Petitioner

Vs.

Smt. Dhanlaxmi Gangaram Nalawade
and ors. — Respondents

Mr.K.S.Patil for petitioner.

Ms.Preetam P. Tendulkar for resp.no.1.

Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 31, 2007.

P.C.

. Heard Mr.Patil, the learned counsel for the petitioner, Ms.Tendulkar appears for the respondent no.1 and the learned APP appears for the other respondents.

. Rule. Respondents waive service.

. The Tahsildar (Executive Magistrate) Alibaug passed the order dated 21/6/2007 under Section 145 of Cr.P.C. directing to seal the house premises i.e.

house no.854 (ground + first floor) admeasuring 1380 sq. ft. located in village Chendhare, Taluka and District Alibaug. The said order is the subject matter of challenge in Criminal Revision Application No.67 of 2007. However, below Exhibit No.3 an ad-interim order has been passed ex-parte on 26/6/2007 directing stay to the order passed by the Tahsildar. It is further directed that in case the suit house is sealed then the Executive Magistrate, Alibaug to open the seal and deliver the possession of the house in question to the petitioner till further orders. Undoubtedly, the ad-interim order impugned is an order in the nature of final order and on its implementation nothing further would survive in the Revision Application. Such an order could not have been passed ex parte and hence it is unsustainable.

. It is stated across the bar that the Revision Application is coming up before the Court below on 8th August 2007 for further hearing and if that be so, it is necessary that the application at Exhibit 3 is heard afresh by the Revision Court and decided after hearing both the parties.

. The petition is, therefore, allowed and the application at Exhibit 3 is hereby restored. It be heard and decided afresh by affording opportunity to both the parties on 8/8/2007. In the mean while, the parties to maintain status quo and the impugned order is set aside. Rule is made absolute accordingly.

. Writ to go forthwith to the Revision Court.

. The Registrar (Judicial) to forward a copy of this order to the learned Principal District and Sessions Judge at Alibaug on fax / e-mail.

(B.H.MARL